

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ANTONETTE MALIWAT ANTONIO
5054 Lambert Lane
San Diego, CA 92115

Registered Nurse License No. 753737
Public Health Nurse Certificate No. 76609
Nurse Practitioner Certificate No. 23320
Nurse Practitioner Furnishing Certificate No.
23320

Respondent

Case No. 2016-586

OAH No. 2016030120

**ORDER CORRECTING CLERICAL ERROR OF THE
PUBLIC HEALTH NURSE CERTIFICATE INFORMATION IN THE
STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC REPROVAL**

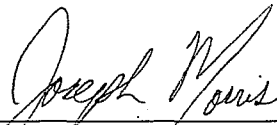
On its own motion, the Board of Registered Nursing (hereafter "Board") finds that there is a clerical error on page 1 in the title box and page 5 in the paragraph labeled ACCEPTANCE of the Stipulated Settlement and Disciplinary Order in the above-entitled matter and that such clerical error should be corrected to include the Public Health Nurse Certificate information and will conform to the Board's intention.

IT IS HEREBY ORDERED that the Public Health Nurse Certificate information contained in the Stipulated Settlement and Disciplinary Order in the above-entitled matter

be and is hereby amended and corrected nunc pro tunc as of the date of entry of the Stipulated Settlement and Disciplinary Order to read as follows:

"Public Health Nurse Certificate No. 76609."

IT IS SO ORDERED this 28th day of November, 2016.

A handwritten signature in cursive script, appearing to read "Joseph L. Morris", is written over a horizontal line.

Joseph L. Morris, PhD, MSN, RN
EXECUTIVE OFFICER
BOARD OF REGISTERED NURSING
STATE OF CALIFORNIA

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Case No. 2016-586


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DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 22, 2016.

IT IS SO ORDERED November 22, 2016.



Michael D. Jackson, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR
Deputy Attorney General
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600 West Broadway, Suite 1800
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2016-586

12 **ANTONETTE MALIWAT ANTONIO**
13 **5054 Lambert Lane**
14 **San Diego, CA 92115**

OAH No. 2016030120

15 **Registered Nurse License No. 753737**
16 **Nurse Practitioner Certificate No. 23320**
Nurse Practitioner Furnishing Certificate
No. 23320

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code § 495]

17 Respondent.

18
19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 PARTIES

23 1. Louise R. Bailey, M.Ed., RN was the Executive Officer of the Board. She brought
24 this action solely in her official capacity. This matter is currently brought by Joseph L. Morris,
25 PhD, MSN, RN (Complainant) solely in his official capacity as the Executive Officer of the
26 Board and is represented in this matter by Kamala D. Harris, Attorney General of the State of
27 California, by Diane de Kervor, Deputy Attorney General.
28

1 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
2 Order for Public Reapproval.

3 9. Respondent is fully aware of her legal rights in this matter, including the right to a
4 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
5 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
6 to the issuance of subpoenas to compel the attendance of witnesses and the production of
7 documents; the right to reconsideration and court review of an adverse decision; and all other
8 rights accorded by the California Administrative Procedure Act and other applicable laws.

9 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
10 every right set forth above.

11 CULPABILITY

12 11. Respondent understands and agrees that the charges and allegations in Accusation
13 No. 2016-586, if proven at a hearing, constitute cause for imposing discipline upon her Registered
14 Nurse License, Public Health Nurse Certificate, Nurse Practitioner Certificate, and Nurse
15 Practitioner Furnishing Certificate.

16 12. For the purpose of resolving the Accusation without the expense and uncertainty of
17 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
18 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
19 those charges.

20 13. Respondent agrees that her Registered Nurse License is subject to discipline and she
21 agrees to be bound by the Disciplinary Order below.

22 CONTINGENCY

23 14. This stipulation shall be subject to approval by the Board of Registered Nursing.
24 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
25 Registered Nursing may communicate directly with the Board regarding this stipulation and
26 settlement, without notice to or participation by Respondent or her counsel. By signing the
27 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
28 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be
3 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
4 further action by having considered this matter.

5 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
6 copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including
7 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
8 effect as the originals.

9 16. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by
10 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
11 of their agreement. It supersedes any and all prior or contemporaneous agreements,
12 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
13 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,
14 supplemented, or otherwise changed except by a writing executed by an authorized representative
15 of each of the parties.

16 17. In consideration of the foregoing admissions and stipulations, the parties agree that
17 the Board may, without further notice or formal proceeding, issue and enter the following
18 Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Registered Nurse License No. 753737, Public Health
21 Nurse Certificate No. 76609, Nurse Practitioner Certificate No. 23320, and Nurse Practitioner
22 Furnishing Certificate No. 23320 issued to Respondent Antonette Maliwat Antonio shall be
23 publicly reprovod by the Board of Registered Nursing under Business and Professions Code
24 section 495 in resolution of Accusation No. 2016-586, attached as exhibit A.

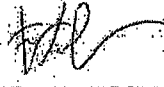
25 Cost Recovery. Respondent shall pay \$9,652.47 to the Board for its costs associated with
26 the investigation and enforcement of this matter. Respondent shall be permitted to pay these
27 costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as
28

1 ordered. Respondent shall not be allowed to renew her Registered Nurse License until
2 Respondent pays costs in full.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
5 Reprimand and have fully discussed it with my attorney, Scott J. Harris. I understand the
6 stipulation and the effect it will have on my Registered Nurse License, and Nurse Practitioner
7 Certificate, and Nurse Practitioner Furnishing Certificate. I enter into this Stipulated Settlement
8 and Disciplinary Order for Public Reprimand voluntarily, knowingly, and intelligently, and agree to
9 be bound by the Decision and Order of the Board of Registered Nursing.

10
11 DATED: 8/12/16


12 ANTONETTE MALIWAT ANTONIO
13 Respondent

14 I have read and fully discussed with Respondent Antonette Maliwat Antonio the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
16 for Public Reprimand. I approve its form and content.

17
18 DATED: 7.22.16


19 SCOTT J. HARRIS
20 Attorney for Respondent

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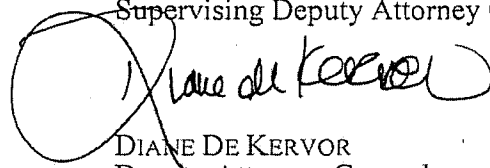
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 7/27/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



DIANE DE KERVOR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2016-586

1 KAMALA D. HARRIS
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2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR
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4 State Bar No. 174721
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2016-586**

12 **ANTONETTE MALIWAT ANTONIO**
13 **5054 Lambert Lane**
14 **San Diego, CA 92115**

A C C U S A T I O N

15 **Registered Nurse License No. 753737**
16 **Public Health Nurse Certificate No. 76609**
17 **Nurse Practitioner Certificate No. 23320**
18 **Nurse Practitioner Furnishing Certificate**
No. 23320

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about July 6, 2009, the Board of Registered Nursing issued Registered Nurse
25 License Number 753737 to Antonette Maliwat Antonio (Respondent). The Registered Nurse
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on February 28, 2017, unless renewed.
28

1 treats, operates for, or prescribes for any ailment, blemish, deformity, disease,
2 disfigurement, disorder, injury, or other physical or mental condition of any
3 person, without having at the time of so doing a valid, unrevoked, or unsuspended
4 certificate as provided in this chapter or without being authorized to perform the
act pursuant to a certificate obtained in accordance with some other provision of
law is guilty of a public offense, punishable by a fine not exceeding ten thousand
dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a
county jail not exceeding one year, or by both the fine and either imprisonment.

5

6 (c) The remedy provided in this section shall not preclude any other remedy
provided by law.

7 10. Section 2264 of the Code states:

8 The employing, directly or indirectly, the aiding, or the abetting of any unlicensed
9 person or any suspended, revoked, or unlicensed practitioner to engage in the practice
of medicine or any other mode of treating the sick or afflicted which requires a
license to practice constitutes unprofessional conduct.

10 11. Section 2725 of the Code states:

11 (a) In amending this section at the 1973-74 session, the Legislature recognizes that
12 nursing is a dynamic field, the practice of which is continually evolving to include
more sophisticated patient care activities. It is the intent of the Legislature in
13 amending this section at the 1973-74 session to provide clear legal authority for
functions and procedures that have common acceptance and usage. It is the legislative
14 intent also to recognize the existence of overlapping functions between physicians
and registered nurses and to permit additional sharing of functions within organized
15 health care systems that provide for collaboration between physicians and registered
nurses. These organized health care systems include, but are not limited to, health
16 facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division
2 of the Health and Safety Code, clinics, home health agencies, physicians' offices,
17 and public or community health services.

18 (b) The practice of nursing within the meaning of this chapter means those
19 functions, including basic health care, that help people cope with difficulties in daily
living that are associated with their actual or potential health or illness problems or
20 the treatment thereof, and that require a substantial amount of scientific knowledge or
technical skill, including all of the following:

21 (1) Direct and indirect patient care services that ensure the safety, comfort,
22 personal hygiene, and protection of patients; and the performance of disease
prevention and restorative measures.

23 (2) Direct and indirect patient care services, including, but not limited to, the
24 administration of medications and therapeutic agents, necessary to implement a
treatment, disease prevention, or rehabilitative regimen ordered by and within the
25 scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as
defined by Section 1316.5 of the Health and Safety Code.

26 (3) The performance of skin tests, immunization techniques, and the withdrawal of
27 human blood from veins and arteries.

28 (4) Observation of signs and symptoms of illness, reactions to treatment, general
behavior, or general physical condition, and (A) determination of whether the signs,

1 symptoms, reactions, behavior, or general appearance exhibit abnormal
2 characteristics, and (B) implementation, based on observed abnormalities, of
3 appropriate reporting, or referral, or standardized procedures, or changes in
4 treatment regimen in accordance with standardized procedures, or the initiation of
5 emergency procedures.

6 (c) "Standardized procedures," as used in this section, means either of the following:

7 (1) Policies and protocols developed by a health facility licensed pursuant to
8 Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety
9 Code through collaboration among administrators and health professionals including
10 physicians and nurses.

11 (2) Policies and protocols developed through collaboration among administrators
12 and health professionals, including physicians and nurses, by an organized health
13 care system which is not a health facility licensed pursuant to Chapter 2
14 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

15 The policies and protocols shall be subject to any guidelines for standardized
16 procedures that the Division of Licensing of the Medical Board of California and the
17 Board of Registered Nursing may jointly promulgate. If promulgated, the guidelines
18 shall be administered by the Board of Registered Nursing.

19 (d) Nothing in this section shall be construed to require approval of standardized
20 procedures by the Division of Licensing of the Medical Board of California, or by the
21 Board of Registered Nursing.

22 (e) No state agency other than the board may define or interpret the practice of
23 nursing for those licensed pursuant to the provisions of this chapter, or develop
24 standardized procedures or protocols pursuant to this chapter, unless so authorized by
25 this chapter, or specifically required under state or federal statute. "State agency"
26 includes every state office, officer, department, division, bureau, board, authority, and
27 commission.

28 12. Section 2725.1 of the Code states:

(a) Notwithstanding any other provision of law, a registered nurse may dispense
drugs or devices upon an order by a licensed physician and surgeon or an order by a
certified nurse-midwife, nurse practitioner, or physician assistant issued pursuant to
Section 2746.51, 2836.1, or 3502.1, respectively, if the registered nurse is functioning
within a licensed primary care clinic as defined in subdivision (a) of Section 1204 of,
or within a clinic as defined in subdivision (b) (c), (h), or (i) of Section 1206 of, the
Health and Safety Code.

(b) No clinic shall employ a registered nurse to perform dispensing duties
exclusively. No registered nurse shall dispense drugs in a pharmacy, keep a
pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered
nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a
certified nurse-midwife who functions pursuant to a standardized procedure or
protocol described in Section 2746.51 or a nurse practitioner who functions pursuant
to a standardized procedure described in Section 2836.1, or protocol, shall not include
substances included in the California Uniform Controlled Substances Act (Division
10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this
section shall exempt a clinic from the provisions of Article 13 (commencing with
Section 4180) of Chapter 9.

1 (c) Nothing in this section shall be construed to limit any other authority granted to
2 a certified nurse-midwife pursuant to Article 2.5 (commencing with Section 2746), to
a nurse practitioner pursuant to Article 8 (commencing with Section 2834), or to a
physician assistant pursuant to Chapter 7.7 (commencing with Section 3500).

3 (d) Nothing in this section shall be construed to affect the sites or types of health
4 care facilities at which drugs or devices are authorized to be dispensed pursuant to
Chapter 9 (commencing with Section 4000).

5 13. Section 2726 of the Code states that "[e]xcept as otherwise provided herein, this
6 chapter [the Nursing Practice Act] confers no authority to practice medicine or surgery."

7 14. Section 2761 of the Code states:

8 The board may take disciplinary action against a certified or licensed nurse or deny
9 an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the following:

11 (1) Incompetence, or gross negligence in carrying out usual certified or licensed
nursing functions.

12

13 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
14 abetting the violating of, or conspiring to violate any provision or term of this chapter
or regulations adopted pursuant to it.

15

16 (i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a
17 licensed physician or not, in the performance of, or arranging for, a violation of any
of the provisions of Article 12 (commencing with Section 2220) of Chapter 5.

18 15. Section 4170 of the Code states:

19 (a) No prescriber shall dispense drugs or dangerous devices to patients in his or her
20 office or place of practice unless all of the following conditions are met:

21 (1) The dangerous drugs or dangerous devices are dispensed to the prescriber's
own patient, and the drugs or dangerous devices are not furnished by a nurse or
22 physician attendant.

23

24 (b) The Medical Board of California, the State Board of Optometry, the Bureau of
Naturopathic Medicine, the Dental Board of California, the Osteopathic Medical
25 Board of California, the Board of Registered Nursing, the Veterinary Medical Board,
and the Physician Assistant Committee shall have authority with the California State
26 Board of Pharmacy to ensure compliance with this section, and those boards are
specifically charged with the enforcement of this chapter with respect to their
27 respective licensees.

28 (c) "Prescriber," as used in this section, means a person, who holds a physician's and
surgeon's certificate, a license to practice optometry, a license to practice naturopathic

1 medicine, a license to practice dentistry, a license to practice veterinary medicine, or a
2 certificate to practice podiatry, and who is duly registered by the Medical Board of
3 California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the
4 Dental Board of California, the Veterinary Medical Board, or the Board of
5 Osteopathic Examiners of this state.

6 REGULATIONS

7 16. California Code of Regulations, title 16, section 1442, states:

8 As used in Section 2761 of the code, 'gross negligence' includes an extreme
9 departure from the standard of care which, under similar circumstances, would have
10 ordinarily been exercised by a competent registered nurse. Such an extreme departure
11 means the repeated failure to provide nursing care as required or failure to provide
12 care or to exercise ordinary precaution in a single situation which the nurse knew, or
13 should have known, could have jeopardized the client's health or life.

14 17. California Code of Regulations, title 16, section 1470, states:

15 The Board of Registered Nursing in conjunction with the Medical Board of
16 California (see the regulations of the Medical Board of California, Article 9.5,
17 Chapter 13, Title 16 of the California Code of Regulations) intends, by adopting
18 the regulations contained in the article, to jointly promulgate guidelines for the
19 development of standardized procedures to be used in organized health care
20 systems which are subject to this rule. The purpose of these guidelines is:

21 (a) To protect consumers by providing evidence that the nurse meets all
22 requirements to practice safely.

23 (b) To provide uniformity in development of standardized procedures.

24 18. California Code of Regulations, title 16, section 1471, states:

25 For purposes of this article:

26 (a) "Standardized procedure functions" means those functions specified in
27 Business and Professions Code Section 2725(c) and (d) which are to be performed
28 according to "standardized procedures";

(b) "Organized health care system" means a health facility which is not
licensed pursuant to Chapter 2 (commencing with Section 1250), Division 2 of the
Health and Safety Code and includes, but is not limited to, clinics, home health
agencies, physicians' offices and public or community health services;

(c) "Standardized procedures" means policies and protocols formulated by
organized health care systems for the performance of standardized procedure
functions.

19 19. California Code of Regulations, title 16, section 1472, states:

20 An organized health care system must develop standardized procedures before
21 permitting registered nurses to perform standardized procedure functions. A
22 registered nurse may perform standardized procedure functions only under the
23 conditions specified in a health care system's standardized procedures; and must
24 provide the system with satisfactory evidence that the nurse meets its experience,
25 training, and/or education requirements to perform such functions.

1 20. California Code of Regulations, title 16, section 1474, states:

2 Following are the standardized procedure guidelines jointly promulgated by the
3 Medical Board of California and by the Board of Registered Nursing:

4 (a) Standardized procedures shall include a written description of the method used
5 in developing and approving them and any revision thereof.

6 (b) Each standardized procedure shall:

7 (1) Be in writing, dated and signed by the organized health care system
8 personnel authorized to approve it.

9 (2) Specify which standardized procedure functions registered nurses may
10 perform and under what circumstances.

11 (3) State any specific requirements which are to be followed by registered
12 nurses in performing particular standardized procedure functions.

13 (4) Specify any experience, training, and/or education requirements for
14 performance of standardized procedure functions.

15 (5) Establish a method for initial and continuing evaluation of the
16 competence of those registered nurses authorized to perform standardized procedure
17 functions.

18 (6) Provide for a method of maintaining a written record of those persons
19 authorized to perform standardized procedure functions.

20 (7) Specify the scope of supervision required for performance of
21 standardized procedure functions, for example, immediate supervision by a
22 physician.

23 (8) Set forth any specialized circumstances under which the registered nurse
24 is to immediately communicate with a patient's physician concerning the patient's
25 condition.

26 (9) State the limitations on settings, if any, in which standardized procedure
27 functions may be performed.

28 (10) Specify patient record keeping requirements.

(11) Provide for a method of periodic review of the standardized procedures.

COST RECOVERY

21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations
of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licentiate to comply subjecting the license to not

1 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
2 may be included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**
4 **(Gross Negligence)**

5 22. Respondent is subject to disciplinary action for unprofessional conduct under section
6 2761, subdivision (a)(1) in that Respondent was grossly negligent, as defined by California Code
7 of Regulation title 16, section 1442, for performing medical procedures upon patients without an
8 appropriate medical examination, without an appropriate assessment and diagnosis, without an
9 appropriate treatment plan, without the required standardized procedures, and without appropriate
10 supervision by a physician such that she could have jeopardized her patient's health and engaged
11 in unsafe patient care. An appropriate medical examination is required where prescriptive drugs
12 and devices will be used, and this examination can not be delegated to registered nurses. After
13 performing the examination, the supervising physician may delegate a procedure that utilizes a
14 prescriptive device to a nurse working under standardized procedures. However, a registered
15 nurse may not perform laser treatment upon a patient without being under a physician's
16 supervision. Furthermore, a registered nurse may only perform medical procedures pursuant to
17 standardized procedures as specified by the Board's rules and regulations. The procedures in
18 effect at the facility where Respondent worked were not sufficient. The facts supporting this
19 cause for discipline are as follows:

20 23. Respondent worked as a Registered Nurse at Ageless & Beautiful Medical Spa
21 located in San Diego, California from 2011 through 2012, prior to her licensure as a Nurse
22 Practitioner.

23 24. SD, a Medical Doctor who worked full time at Sharp Mary Birch Hospital for
24 Women as a perinatologist, owned and operated the facility and hired Respondent to work there.
25 SD came to the spa three times per week and on Saturdays to review charts and write physician
26 orders. Otherwise, he was available by phone, text, fax or email.

27 25. On a typical day, Respondent would examine patients, inquire about each patient's
28 complaints and desired treatments, obtain a complete medical history of the patient, consult and

1 develop a treatment plan with the patient, and then give the patient the costs and details of
2 possible treatments.

3 26. Then, without a prior physician examination and without physician supervision,
4 Respondent treated patients with a laser machine at the facility. Respondent would perform hair
5 removal, photo facials, and would also laser skin.

6 27. SD had standardized procedures at the clinic for the nurses who worked at the spa.
7 As detailed below, those procedures did not include the provisions required by law and their
8 insufficiency posed a risk to patients.

9 a. The procedures SD provided to Respondent did not have a written description
10 of the method used in developing and approving them and any revision thereof.

11 b. They were not dated and signed by SD.

12 c. They did not specify which standardized procedure functions registered nurses
13 may perform and under what circumstances.

14 d. They did not state any specific requirements which are to be followed by
15 registered nurses in performing particular standardized procedure functions.

16 e. They did not specify any experience, training, and/or education requirements
17 for performance of standardized procedure functions.

18 f. They did not establish a method for initial and continuing evaluation of the
19 competence of those registered nurses authorized to perform standardized procedure functions.

20 g. They did not provide for a method of maintaining a written record of those
21 persons authorized to perform standardized procedure functions.

22 h. They did not specify the scope of supervision required for performance of
23 standardized procedure functions, for example, immediate supervision by a physician.

24 i. They did not set forth any specialized circumstances under which the registered
25 nurse is to immediately communicate with a patient's physician concerning the patient's
26 condition.

27 j. They did not state the limitations on settings, if any, in which standardized
28 procedure functions may be performed.

- 1 k. They did not specify patient record keeping requirements.
- 2 1. They did not provide for a method of periodic review of the standardized
- 3 procedures.

4 28. When Respondent was asked when the doctor would examine her patients,

5 Respondent reported that she did not recall. An ordinarily responsible and prudent nurse is aware

6 of and in compliance with the regulations regarding standardized protocols. She should recall if

7 an appropriate medical examination was done on her patient prior to treatment. She should refuse

8 to perform medical procedure outside of her protocols and without an appropriate medical

9 examination. Respondent either knew, or should have known, that such conduct could have

10 jeopardized her patients' health.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct - Practicing Medicine Without a License)**

13 29. Respondent is subject to disciplinary action under Code section 2761, subsections

14 (a) and (d) in that by examining, prescribing, dispensing, and administering laser treatments to

15 patients without proper direction and supervision by a medical doctor and without a prescription ,

16 she engaged in the unlicensed practice of medicine as prohibited by Code sections 2052, 2725,

17 2725.1, 2726, 4170, and as detailed in paragraphs 22 through 28, which are incorporated herein

18 by reference.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct - Aiding and Abetting Unauthorized Practice of Medicine)**

21 30. Respondent is subject to disciplinary action under Code section 2761, subsections

22 (a) and (i), in that she aided and abetted the unauthorized practice of medicine by participating in

23 and cooperating with SD, a medical doctor, in operating Ageless & Beautiful Medical Spa by

24 advertising for and procuring clients to whom she prescribed and administered laser treatments

25 without an examination or order from a licensed physician and without adequate supervision.

26 The independent use of a laser by a registered nurse is the practice of medicine. Only a

27 physician, or a nurse under the direct supervision of a physician, after an examination and order

28 by a physician, may use a laser device in the treatment of a patient. By providing such services

1 independently, Respondent aided an abetted unlawful conduct by SD, in violation of section 2264.
2 This cause is supported by facts detailed in paragraphs 22 through 29, which are incorporated
3 herein by reference .

4 **FOURTH CAUSE FOR DISCIPLINE**
5 **(Unprofessional Conduct – Providing Medical Treatment**
6 **Without Adequate Procedures and Protocols)**

7 31. Respondent has subjected her registered nurse license to disciplinary action
8 under Code section 2761, subdivision (a), for unprofessional conduct when she examined patients
9 and treated them with a laser without adequate supervision, procedures and protocols in place to
10 protect her patients, as set forth in paragraph numbers 22 through 30, which are incorporated
11 herein by reference.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 753737, issued to
16 Antonette Maliwat Antonio;

17 2. Revoking or suspending Public Health Nurse Certificate No. 76609, issued to
18 Antonette Maliwat Antonio;

19 3. Revoking or suspending Nurse Practitioner Certificate Number 23320, issued to
20 Antonette Maliwat Antonio;

21 4. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 23320,
22 issued to Antonette Maliwat Antonio;

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24 ///

25 ///

26 ///

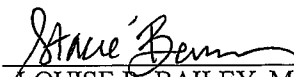
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1 5. Ordering Antonette Maliwat Antonio to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 6. Taking such other and further action as deemed necessary and proper.

5 DATED: December 14, 2015


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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